Bohlen in 20 HARV. L. REV. 14, 91–93. The employer should therefore be liable whether or not the servant by doing him the favor hopes to retain his position.

NEGLIGENCE — DUTY OF CARE — ELECTRIC WIRES: DUTY OF ELECTRIC COMPANY TO LICENSEE ON LAND OF THIRD PARTY. — A fireman entering a city hall in the course of his duties in order to extinguish a fire was killed by contact with a pipe which had become charged with electricity through the negligence of the defendant company, which had wired the hall. His administrator now sues. *Held*, that he may recover. *Barnett* v. *Atlantic City El. Co.*, 93 Atl. 108 (N. J.).

It is settled that a fireman is a mere licensee. See cases collected in 35 L. R. A. N. S. 60. The decision in the principal case takes the ground that the special exemption by virtue of which the landlord is not required to use ordinary care in regard to the condition of his premises does not shield third parties. *Commonwealth Elec. Co.* v. *Melville*, 210 Ill. 70, 70 N. E. 1052; *Day* v. *Consolidated, etc. Co.*, 136 Mo. App. 274, 117 S. W. 81. This idea has been applied even where the plaintiff may have been a trespasser. *Caglione* v. *Mt. Morris Elec. Lt. Co.*, 56 N. Y. App. Div. 191, 67 N. Y. Supp. 660; *Connell* v. *Keokuk, etc. Co.*, 131 Ia. 622, 109 N. W. 177. See also *Guinn* v. *Delaware, etc. Co.*, 72 N. J. L. 276, 62 Atl. 412. In other jurisdictions the electric company's duty has been held no greater than the landowner's. *McCaughna* v. *Owosso, etc. Co.*, 129 Mich. 407, 89 N. W. 73. And this view has been applied where the defendant itself was at most a licensee at sufferance. *Cumberland, etc. Co.* v. *Martin's Adm'r*, 116 Ky. 554, 76 S. W. 394, 77 S. W. 718. Other states hold the electric company liable to a mere licensee, irrespective of its status, on the theory that electricity is such a dangerous agency that even the landlord would be so liable. *Wittleder* v. *Citizens', etc. Co.*, 50 N. Y. App. Div. 478, 64 N. Y. Supp. 114. *Augusta Ry. Co.* v. *Andrews*, 92 Ga. 706, 19 S. E. 713. *Cf. Davoust* v. *City of Almeda*, 149 Cal. 69, 84 Pac. 760. Some courts apply this theory even in favor of technical trespassers. *Lynchburg Telephone Co.* v. *Bokker*, 103 Va. 595, 50 S. E. 148; *Newark, etc. Co.* v. *Garden*, 23 C. C. A. 649, 78 Fed. 74. *Contra*, *Augusta Ry. Co.* v. *Andrews*, 89 Ga. 653, 16 S. E. 203. Several authorities, on the other hand, take the ground that if the plaintiff touches the defendant's wires he may thereby assume the status of a licensee or a trespasser toward the defendant and as such be denied recovery. *New Omaha, etc. Co.* v. *Anderson*, 73 Neb. 49, 102 N. W. 89; *Rodger's Adm.* v. *Union, etc. Co.*, 123 S. W. 293 (Ky.); *City of Greenville* v. *Pitts*, 102 Tex. 1, 107 S. W. 50. *Cf. Hector* v. *Boston Elec. Lt. Co.*, 161 Mass. 558, 37 N. E. 773. But on the whole the result in the principal case seems fair, in spite of the argument that the landowner's exemption should extend to anyone who works on his premises for his benefit.

POLICE POWER — NATURE AND EXTENT — STATUTE REGULATING THE PRIVATE USE OF INTOXICANTS. — The defendant was convicted under a Kentucky statute making it a crime to keep liquor elsewhere than in the owner's private residence. *Held*, that the statute is unconstitutional. *Commonwealth* v. *Smith*, 173 S. W. 340 (Ky. Ct. App.).

Kentucky had previously held unconstitutional a similar inhibition applying to private residences. *Commonwealth* v. *Campbell*, 133 Ky. 50, 117 S. W. 383. So this decision has at least the merit of consistency. In so far as these cases rest upon limitations upon legislative power in the state constitution, the conclusion cannot profitably be criticised. But the court also took the broad ground that regulation of private use of intoxicants is outside the police power. This view has support. *Ex parte Brown*, 38 Tex. Cr. 295, 42 S. W. 554; *State* v. *Gilman*, 33 W. Va. 146, 10 S. E. 283; *State* v. *Williams*, 146 N. C. 618, 61 S. E. 61; *Eidge* v. *Bessemer*, 164 Ala. 599, 51 So. 246. Other cases apparently

in accord involve simply the legislative power of municipal corporations. *Henderson* v. *Heyward*, 109 Ga. 373, 34 S. E. 590; *Sullivan* v. *Oneide*, 61 Ill. 242. But there are contrary adjudications. *Cohen* v. *State*, 7 Ga. App. 5, 65 S. E. 1096; *Easley* v. *Pegg*, 63 S. C. 98, 41 S. E. 18. See *Mugler* v. *Kansas* 123 U. S. 623, 660. The court theorizes that the police power can be exercised only on behalf of the public, while this statute concerned individual conduct. Yet at common law suicide and self-mayhem were crimes. *Rex* v. *Russell*, 1 Moody C. C. 356; *Wright's Case*, Co. Lit. 127*a*. See 1 BISHOP, CRIMINAL LAW, 8 ed., §§ 259, 511. This statute should be upheld unless judicial eyes can clearly see it has no reasonable bearing on the public health, morals, peace, or welfare. See *Mugler* v. *Kansas*, *supra; Powell* v. *Pennsylvania*, 127 U. S. 678; *Holden* v. *Hardy*, 169 U. S. 366. If the statute be overthrown, one who has satiated his protected right privately to renounce sobriety might forthwith tire of seclusion, and burst forth a public menace. Furthermore, the "public" is but a composite of individuals, who should not be entitled singly to jeopardize their own health and increase the possibility of their becoming public charges. The principal case would seem to recognize a constitutional guaranty to the individual not to be deprived of life, liberty, or liquor.

POLICE POWER — REGULATION OF BUSINESS AND OCCUPATIONS — PROHIBITION OF NIGHT WORK BY WOMEN IN FACTORIES. — The defendant was convicted under a New York statute (CONS. LAWS, c. 31, as amended by LAWS 1913, c. 83) which provided that "no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after ten o'clock in the evening of any day." *Held*, that the statute is constitutional. *People* v. *Charles Schweinler Press*, 53 N. Y. L. J. 81 (N. Y. Ct. of App.).

For a discussion of the significance of this decision as marking the present attitude of the courts in approaching questions of "due process," see NOTES, p. 790.

POLICE POWER — REGULATION OF TRADE, PROFESSIONS, AND BUSINESS — PROTECTION OF THE ECONOMIC WELFARE OF A STATE. — A Florida statute prohibited the shipment of fruit that was "unripe or otherwise unfit for consumption." The petitioner, who had been arrested for attempting to ship unripe oranges from Florida to Alabama, sought a writ of *habeas corpus* on the ground that the statute, so far as it applied to interstate shipments, was an invalid exercise of police power by the state. *Held*, that the statute is constitutional. *Sligh* v. *Kirkwood*, 237 U. S. 52.

To reach the unique point of this case it must be premised that the statute in question presents no conflict with federal jurisdiction over interstate commerce. There appears to be no enactment of Congress that deals with the situation, for the Food and Drugs Act applies only to decomposed fruit. U. S. COMP. STAT., 1913, § 8723. And there can be little doubt that since Congress has taken no affirmative action, the restriction placed upon interstate commerce is of the incidental sort which is not objectionable. *Hennington* v. *Georgia*, 163 U. S. 299; *Minnesota Rate Cases*, 230 U. S. 352, 402. Since the shipment involved was designed for the citizens of other states, the statute could not be upheld as a health measure, but had to be rested upon the novel principle that the state may prevent the shipment of unripe fruit because such sales injure the reputation of the state in an industry which is vitally related to its entire economic welfare. There is room for difference of opinion as to the probability of injury of this sort, but the legislature could not be deemed unreasonable in thinking that undiscriminating buyers in the outside markets would associate the injurious quality of the fruit with the fact that they came from Florida. It